

## § 146.5

official approval number of the participant and may be used on each certificate, invoice, shipping label, or other document used by the participant in the sale of the participant's products. Each Official State Agency which requires an approval number for out-of-State participants to ship into its State shall honor this number.

### § 146.5 Specific provisions for all participating flocks.

(a) Participating flocks, and all equipment used in connection with the flocks, shall be separated from non-participating flocks in a manner acceptable to the Official State Agency.

(b) Poultry equipment, and poultry houses and the land in the immediate vicinity thereof, shall be kept in sanitary condition as recommended in § 147.21(c) of this subchapter.

### § 146.6 Specific provisions for participating slaughter plants.

(a) Only meat-type chicken and meat-type turkey slaughter plants that are under continuous inspection by the Food Safety and Inspection Service of the Department or under State inspection that the Food Safety Inspection Service has recognized as equivalent to federal inspection may participate in the Plan.

(b) To participate in the Plan, meat-type chicken and meat-type turkey slaughter plants must follow the relevant special provisions in §§ 146.33(a) and 146.43(a), respectively, for sample collection and flock monitoring, unless they are exempted from the special provisions under §§ 146.32(b) or 146.42(b), respectively.

### § 146.7 Terminology and classification; general.

The official classification terms defined in §§ 146.8 and 146.9 and the various designs illustrative of the official classifications reproduced in § 146.9 may be used only by participants and to describe products that have met all of the specific requirements of such classifications.

### § 146.8 Terminology and classification; slaughter plants.

Participating slaughter plants shall be designated as "U.S. H5/H7 Avian In-

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fluenza Monitored." All Official State Agencies shall be notified by the Service of additions, withdrawals, and changes in classification.

### § 146.9 Terminology and classification; flocks, products, and States.

Participating flocks (including affiliated flocks), products produced from them, and States which have met the respective requirements specified in subparts B, C, or D of this part may be designated by the following terms or illustrative designs:

(a) *U.S. H5/H7 Avian Influenza Monitored.* (See §§ 146.23(a), 146.33(a), and 146.43(a).)

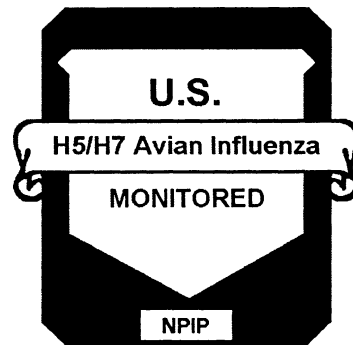


Figure 2.

(b) *U.S. H5/H7 Avian Influenza Monitored State, Layers.* (See § 146.24.)

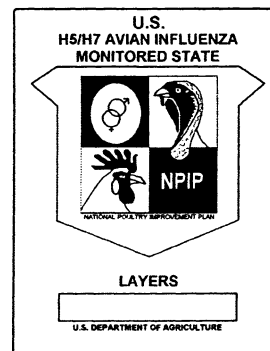


Figure 3.

(c) *U.S. H5/H7 Avian Influenza Monitored State, Turkeys.* (See § 146.44.)

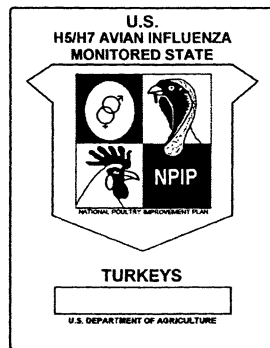


Figure 4.

**§ 146.10 Supervision.**

(a) The Official State Agency may designate qualified persons as Authorized Agents to do the sample collecting provided for in § 146.13 of this part.

(b) The Official State Agency shall employ or authorize qualified persons as State Inspectors to perform the selecting and testing of participating flocks and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

(c) Authorities issued to Authorized Agents or State Inspectors under the provisions of this section shall be subject to cancellation by the Official State Agency on the grounds of incompetence or failure to comply with the provisions of the Plan or regulations of the Official State Agency. Such actions shall not be taken until thorough investigation has been made by the Official State Agency and the authorized person has been given notice of the proposed action and the basis thereof and an opportunity to present his or her views.

**§ 146.11 Inspections.**

(a) Each participating slaughter plant shall be audited at least once annually or a sufficient number of times each year to satisfy the Official State Agency that the participating slaughter plant is in compliance with the provisions of this part.

(b) On-site inspections of any participating flocks and premises will be con-

ducted if a State Inspector determines that a breach of testing has occurred for the Plan programs for which the flocks are certified.

(c) The official H5/H7 LPAI testing records of all participating flocks and slaughter plants shall be examined annually by a State Inspector. Official H5/H7 LPAI testing records shall be maintained for 3 years.

**§ 146.12 Debarment from participation.**

Participants in the Plan who, after investigation by the Official State Agency or its representative, are notified in writing of their apparent non-compliance with the Plan provisions or regulations of the Official State Agency shall be afforded a reasonable time, as specified by the Official State Agency, within which to demonstrate or achieve compliance. If compliance is not demonstrated or achieved within the specified time, the Official State Agency may debar the participant from further participation in the Plan for such period, or indefinitely, as the Official State Agency may deem appropriate. The debarred participant shall be afforded notice of the bases for the debarment and opportunity to present his or her views with respect to the debarment in accordance with procedures adopted by the Official State Agency. The Official State Agency shall thereupon decide whether the debarment order shall continue in effect. Such decision shall be final unless the debarred participant, within 30 days after the issuance of the debarment order, requests the Administrator to determine the eligibility of the debarred participant for participation in the Plan. In such an event, the Administrator shall determine the matter de novo in accordance with the rules of practice in 7 CFR part 50, which are hereby made applicable to proceedings before the Administrator under this section. The definitions in 7 CFR 50.10 and the following definitions shall apply with respect to terms used in such rules of practice:

(a) *Administrator* means the Administrator, Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, or any officer or